

NATURAL RESOURCES

Forest Restoration SB 08-071 (Enacted) <i>Extend Forest Restoration Pilot Program</i>			SB 08-221 (Enacted) <i>Bonds for Forest Health Watershed Projects</i>								
Endangered Species Recovery SB 08-168 (Enacted) <i>Species Conservation Trust Fund</i>											
HB 08-1161 (Enacted) <i>Strengthen Mining Reclamation Standards</i>		HB 08-1165 (Postponed Indefinitely) <i>Strengthen Mining Reclamation Standards</i>		SB 08-228 (Enacted) <i>More Public Disclosure Prospecting Notice</i>							
Colorado Oil and Gas Conservation Commission HB 08-1379 (Enacted) <i>Extend Oil and Gas Commission Rules</i>						HB 08-1414 (Enacted) <i>Regulate Oil and Gas Waste Pits</i>					
Aquatic Nuisance Species SB 08-226 (Enacted) <i>Aquatic Nuisance Species Prohibition</i>											

Forest Restoration

Many of Colorado's forests are weakened by drought and susceptible to forest insects, diseases, and wildfires. According to the Colorado State Forest Service, more than 980,000 acres (over 1,000 square miles) were infested with mountain pine beetle in 2007. **Senate Bill 08-71** extends a pilot demonstration program for forest restoration and its related technical advisory panel from July 1, 2008, to July 1, 2012. It also appropriates \$1 million annually from the operational account of the Severance Tax Trust Fund for four fiscal years beginning in FY 2008-09. In years where insufficient funds exist to appropriate the \$1 million, the appropriation is to be pro rated to accommodate the demands on the fund. The state's contribution for any project may not exceed 60 percent of the project's cost or \$1 million. Also, no more than 3 percent of appropriated funds may be used to administer the grant program. The law directs the Colorado State Forest Service Division to solicit proposals for experimental forest restoration projects that protect water supplies. Projects may be located on public or private land, but they must be located in an area with an approved community wildfire protection plan.

Senate Bill 08-221 authorizes the Colorado Water Resources and Power Development Authority (CWRPDA) to issue up to \$50 million in bonds for watershed protection and forest health projects. The CWRPDA is authorized to make loans from bond proceeds for such projects to governmental agencies that have an agreement with either the Colorado Clean Energy Development Authority or the Colorado State Forest Service (CFS). Governmental agencies includes cities, counties, water conservation and conservancy districts, special districts, municipal utilities, state agencies, the United State Forest Service and the Bureau of Land Management, and enterprises established through an interstate compact. Up to 20 percent of the

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bond proceeds may be distributed to the Clean Energy Development Authority for watershed protection and forest health projects, and incentives for the use of beetle infested lumber. The remainder of the moneys must be distributed to the State Forester for watershed protection and forest health projects. The bill also authorizes CWRPDA to establish debt service reserve funds for such projects, to be used for the payment of the principal on bonds.

Endangered Species Recovery

The Species Conservation Trust Fund was created in 1998 to provide for expenses associated with cooperative agreements, recovery programs, and other activities designed to meet the state's obligations under the federal Endangered Species Act. **Senate Bill 08-168** appropriates over \$11 million for species recovery programs in FY 2008-09 and FY 2009-10 including:

- \$7.6 million for the recovery of endangered species on the Platte River;
- \$2.8 million for grouse conservation;
- \$240,000 for Colorado Natural Areas Program;
- \$520,000 for eastern plains native fish conservation;
- \$500,000 for acquiring water rights for habitat improvement in FY 2009-10; and
- \$60,000 for wildlife research.

Mining Regulation

Growing world-wide demand for nuclear-fueled power plants and dwindling world stockpiles have raised the value of the uranium to near record levels and fueled interest in uranium mining in Colorado. Two bills sought to increase mining regulations with a focus on in situ leach (ISL) uranium mining operations. **House Bill 08-1161** expands the regulatory authority of the Mined Land Reclamation Board in the Colorado Department of Natural Resources over uranium ISL mining operations. The ISL process uses chemicals to free uranium from the surrounding ore, allowing it to be pumped out of the ground with water and refined on the surface. The act requires that applicants for ISL mine reclamation permits to certify that they have not willfully violated the environmental protection requirements of Colorado's Mined Land Reclamation Act. Applicants must also identify at least five ISL operations that have operated without contaminating groundwater outside of the permitted mining area. Applicants must notify all landowners within three miles of the mine for which they are seeking a reclamation permit. Applicants must include with their application a baseline site characterization that will be used to assess mining impacts and a plan for an on-going monitoring of the affected site and groundwater and surface water resources. The board may retain an independent expert to oversee the characterization and may require the applicant pay for the associated costs. The characterization is required to thoroughly assess pre-mining site and water resource conditions; to detect any subsurface excursions of chemicals used in leach mining operations; and to evaluate the effectiveness of post-mining reclamation and groundwater reclamation plans.

The board must deny a reclamation permit if an applicant fails to demonstrate that it is capable of reclaiming groundwater to pre-mining conditions or the statewide radioactive materials standards. The board may deny a permit if the feasibility of reclamation is uncertain or the existing or potential future uses of affected groundwater include domestic or agricultural uses. It may also deny an application if the applicant has violated reclamation laws and did not take the required corrective action; or they have demonstrated a pattern of willful violation of environmental protection requirements. The law requires ISL uranium

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operations to reclaim affected groundwater to pre-mining conditions, or a quality that satisfies statewide radioactive materials standards. Finally, the law requires ISL mine operators to notify the board about failures of mining structures designed to prevent or mitigate adverse impacts to groundwater, human health, wildlife, or the environment within 24 hours of discovering such failure.

House Bill 08-1165 would have expanded the authority of the Mined Land Reclamation Board to regulate hardrock mining operations to protect human health and the environment. This bill was postponed indefinitely by the House Agriculture, Livestock, and Natural Resources Committee. Specifically, the bill sought to add the Department of Public Health and Environment's executive director and a member representing local government interests. The bill would have required the board to protect surface owner's rights by recognizing the principle of reasonable accommodation, and would have required it to refer all applications for new reclamation permits to the Department of Public Health and Environment (DPHE) for its review. Based on the DPHE recommendation, the board would have been allowed to add conditions to a permit to protect human health, wildlife, or the environment. Further, the bill specified that all information submitted to the board, other than the location, size and nature of an ore deposit, was a matter of public record. The bill increased the time for filing a protest of a mining permit application by 15 days, and established a 60-day deadline for filing an appeal of a board decision. The bill declared that sufficient funding to ensure adequate reclamation should be required for permit approval, and reclamation costs should be borne by the mining operator.

Public notice of prospecting. Anyone seeking to prospect must submit a notice of intent to conduct prospecting and obtain a permit from the Mined Land Reclamation Board (MLRB). The notice must include information about the prospecting operation, its location, and a plan to reclaim the land after prospecting is completed. Under current law, information provided in the notice must be protected as confidential, unless otherwise released in writing by the operator. **Senate Bill 08-228** specifies that all information provided to the MLRB in a prospecting notice is a matter of public record and is subject to the open records act. The act exempts information relating to the location, size, or nature of the mineral deposit, and other information designated by the operator as proprietary. The board is required to post the prospecting notice on its web site and it must promulgate rules to implement the new law.

Oil and Gas Regulation

Two new laws address the regulation of oil and gas operations in Colorado. **House Bill 08-1414** requires the Solid and Hazardous Waste Commission within the Colorado Department of Public Health and Environment to promulgate rules to regulate oil and gas exploration and production (EP) waste disposal facilities. The commission's rules must require a set-back of one-half mile for such facilities from homes, schools, day care centers, certain medical facilities, other occupied structures, and outdoor activity areas such as parks. They must also require fabricated liners and monitoring to prevent the contamination of groundwater; waste analysis and reporting to ensure that only EP waste is disposed of at the site; fencing and netting to restrict the access by the public and wildlife; and financial assurance to cover the cost of reclaiming abandoned sites. Existing facilities must file an application to update a facility's certificate of designation with the local government and with the Department of Public Health and Environment within three months after the commission implements rules. Existing facilities have two years to fully comply with the rules, but are not required to comply with the set-back requirement.

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In 2007, the Colorado General Assembly enacted laws (House Bill 07-1298 and House Bill 07-1341) that required the Colorado Oil and Gas Conservation Commission (COGCC) to balance energy development with public health and safety, wildlife, and the environment. **House Bill 08-1379** extends the deadline (from April 1, 2008 to July 16, 2008) for the COGCC to promulgate rules concerning a consultation process with the Department of Public Health and Environment (DPHE) to protect the health, safety, and welfare of the general public in the conduct of oil and gas operations. The act also extends the deadline (from July 1, 2008, to July 16, 2008) for the COGCC to promulgate rules in consultation with the Wildlife Commission to establish standards for minimizing adverse impact on wildlife resources affected by oil and gas operations.

Aquatic Nuisance Species

The zebra mussel was discovered at Pueblo Reservoir in January 2008. Due to its hard shell and ability to rapidly reproduce, this aquatic nuisance is capable of clogging water facilities, impacting water quality, and impairing infrastructure of dams, and water treatment and power plants. Since it was first discovered in the Great Lakes in 1988, the zebra mussel has spread to 25 other states. **Senate Bill 08-226** creates a program to protect the state's waters from zebra mussels and other aquatic nuisance species. The bill requires the Division of Wildlife (DOW) and Division of Parks and Outdoor Recreation (Parks) in the Department of Natural Resources, the Governor's Office of Economic Development, the Colorado Tourism Office, and the Department of Agriculture, to implement plans to control these species. Specifically, it authorizes the DOW and Parks to stop and inspect motor vehicles, vessels, trailers, or any related equipment (i.e., conveyances) under certain conditions. It also allows the agencies to require conveyance owners to decontaminate their conveyance or have it impounded; and to assess penalties on persons who fail to comply with the requirements. The bill appropriates up to \$7.2 million from Severance Tax Trust Fund moneys and Wildlife Cash Funds for the control aquatic nuisance species in FY 2008-09.